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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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Federal Communications Commission
Office of Secretary

In the Matter of)
)
Implementation of the) CC Docket No. 96-152
Telecommunications Act of 1996:)
)
Telemessaging,)
Electronic Publishing, and)
Alarm Monitoring Services)

**REPLY COMMENTS OF U S WEST, INC. IN SUPPORT OF
SOUTHWESTERN BELL TELEPHONE COMPANY'S
PETITION FOR RECONSIDERATION OR
CLARIFICATION OF SECOND REPORT AND ORDER**

U S WEST, Inc. ("U S WEST") submits these Reply Comments in support of the Petition for Reconsideration or Clarification filed by Southwestern Bell Telephone Company ("SWBT") in this docket.¹

In the Second Report and Order,² the Federal Communications Commission ("Commission") concluded that "section 275 does not, by its terms, prohibit a [Bell Operating Company] BOC from acting as a sales agent or marketing alarm monitoring services."³ However, the Commission said that such arrangements may represent the provision of alarm monitoring services under Section 275 and,

¹ Southwestern Bell Telephone Company's Petition for Reconsideration or Clarification of Second Report and Order, filed May 5, 1997 ("Petition").

² In the Matter of Implementation of the Telecommunications Act of 1996: Telemessaging, Electronic Publishing, and Alarm Monitoring Services, Second Report and Order, 12 FCC Rcd. 3824 (1997) ("Second Report and Order").

³ Id. at 3841 ¶ 37.

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therefore, “we will examine sales agency and marketing arrangements between a BOC and an alarm monitoring company on a case-by-case basis to determine whether they constitute the ‘provision’ of alarm monitoring service.”⁴

The Commission described two factors which it would consider: (1) whether the terms and conditions of the arrangement are made available to other alarm monitoring companies on a nondiscriminatory basis;⁵ and (2) whether the BOC has a financial stake in the commercial success of the alarm monitoring company, based upon the BOC’s compensation arrangement with that company.⁶

U S WEST agrees with SWBT that whether the terms and conditions of the sales agency and marketing arrangement are made available to other alarm monitoring companies on a nondiscriminatory basis should not be a factor for the Commission’s consideration.⁷ The nondiscrimination requirements in Section 275(b)⁸ are limited to the BOC’s provision of network services to nonaffiliated alarm monitoring. Moreover, the Commission agreed with U S WEST in the Second Report and Order that the nondiscrimination obligation in Section 275(b)(1) with regard to the provision of network services only applies if the BOC is authorized to provide alarm monitoring services.⁹ As a sales agent for a nonaffiliated alarm monitoring company, a BOC is not engaged in the provision of alarm monitoring

⁴ Id. at 3841-42 ¶ 38.

⁵ Id.

⁶ Id. at 3842 ¶ 39.

⁷ Petition at 2-3.

⁸ 47 U.S.C. § 275(b).

⁹ Second Report and Order at 3847 ¶ 52.

services if it does not have a financial stake in the company's business and, therefore, the BOC owes no nondiscrimination duty under Section 275 to any alarm monitoring company.

In lieu of requiring a BOC to make the terms and conditions of a sales agency arrangement available to other alarm monitoring companies on a nondiscriminatory basis, SWBT suggests that the Commission could substitute a requirement that the marketing arrangement between a BOC and a nonaffiliated alarm monitoring company must be non-exclusive.¹⁰ However, there is no basis in Section 275 for the imposition of such a requirement.

If a BOC or BOC affiliate has a business reason for wanting to market the services of a nonaffiliated alarm monitoring company or acting as a sales agent, the BOC or BOC affiliate may choose to enter into such an arrangement exclusively with a single provider for some, or all, of the following reasons: The BOC or BOC affiliate can more effectively control its marketing costs, can minimize customer confusion, and can better promote the brand identity of the alarm monitoring company if the sales agency or marketing arrangement is exclusive.¹¹

U S WEST strongly supports SWBT's Petition to eliminate the Commission's requirement that the terms and conditions of a sales agency or marketing arrangement between a BOC or BOC affiliate and a nonaffiliated alarm monitoring company must be available to other alarm monitoring companies on a

¹⁰ Petition at 5.

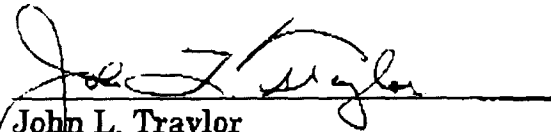
¹¹ In its Comments in support of the SWBT Petition, BellSouth Corporation cites other business reasons for entering into limited, or perhaps exclusive, sales agent or marketing arrangements. BellSouth Comments, filed June 4, 1997 at 3.

nondiscriminatory basis. Moreover, the Commission should not impose a requirement that such arrangements must be nonexclusive.

Respectfully submitted,

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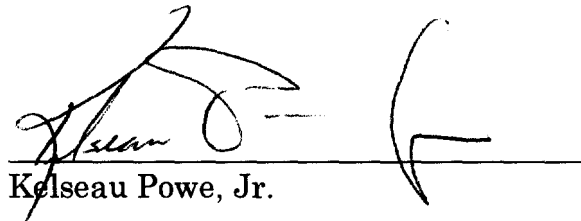
Its Attorney

Of Counsel,
Dan L. Poole

June 18, 1997

CERTIFICATE OF SERVICE

I, Kelseau Powe, Jr., do hereby certify that on this 18th day of June, 1997, I have caused a copy of the foregoing **REPLY COMMENTS OF U S WEST, INC. IN SUPPORT OF SOUTHWESTERN BELL TELEPHONE COMPANY'S PETITION FOR RECONSIDERATION OR CLARIFICATION OF SECOND REPORT AND ORDER** to be served via first-class United States mail, postage prepaid, upon the persons listed on the attached service list.



Kelseau Powe, Jr.

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